

West Tisbury Zoning Board of Appeals  
Minutes January 14, 2016 – 5:10 PM  
2<sup>nd</sup> Floor, Town Hall

**PRESENT:** Nancy Cole (Chairman), Larry Schubert, Tucker Hubbell, Toni Cohen, Tony Higgins and Julius Lowe.

**ABSENT:** Toni Cohen and Bob Schwier.

**ALSO PRESENT:** Paul Bannon, Jarrod Bannon, Attorney Geoghan Coogan, Joe Tierney and Clare Harrington (Administrator)

**Minutes:**

January 7, 2016 - Tucker made a motion to approve the minutes with corrections, Julius seconded. The vote was unanimous with one abstention.

**Hearings:**

**5:15 PM**

**An application from Bannon Custom Builders, agent for Phillip Edmondson, to appeal an order by the Building/Zoning Inspector under section 10.1-2D2 of the Zoning Bylaws after having demolished a single family residence without a demolition permit MGL Chapter 40 Section 8 and Section 15, Map 43, Lot 3, Lot 6 and Lot2, RU District.**

Nancy opened the hearing. *Correspondence: (1) Letter dated December 16, 2015, from the Building Inspector to Bannon Custom Builders. (2) Letter dated January 5, 2016, from Bannon Custom Builders to WTZBA read into the record. (3) Email dated January 14, 2016, from Philip Edmondson (owner of property) read into the record. (4) Copy of letter from the Planning Board (dated October 21, 2014) to the Building Inspector. (5) Copy of the WT Planning Board minutes dated October 20, 2014.*

Clare told the Board that due to an error when placing the legal advertisement the incorrect Zoning Bylaw was referenced. The application was advertised under 10.3-2 (variances) where it should have been referenced under MGL Chapter 40A, Section 8 and Section 15 (appeal to permit granting authority see attached). Clare explained that the verbiage of the legal ad, including the notice to abutters, was very specific and spelled out the language correctly stating the nature of the appeal. The meeting was opened under the correct Chapter and Section regarding appeals. Tucker asked the applicant's attorney Mr. Coogan, if they had any objections to proceeding with the hearing or if they would like to have the board re-advertise with the correct section. Attorney Coogan told the board they had no problem in proceeding with the hearing.

On December 16, 2015, (see attached) the building inspector sent a violation letter to Bannon Custom Builders explaining they were in violation of WTZBL10.1-1, which prohibits the demolition of residential structures without obtaining a demolition permit. The bylaw states the applicant cannot obtain a building permit or an occupancy permit for a period of two years after the date of demolition (see WTZBL10.1-2D2). The applicant is appealing the building inspector's decision and is seeking relief from the bylaw to allow the applicant to apply for a building permit. The current building permit which was issued was revoked under the Zoning Bylaw 10.1-2.

Attorney Coogan explained to the board that when applying for the building permit they inadvertently failed to file for the demolition permit. It was an unintentional oversight with no malice on their part. A brief background regarding the project was given. Joe Tierney (Building Inspector) explained that in 2014 a building permit was pulled by Mr. Edmundson's architects to start the project. Simultaneously, an application under plan review was approved by the Planning Board in October 20, 2014, for a house over 3000 sq. ft. In August of 2015, Bannon Custom Builders applied for a "change in contractor" application to continue the project. At this time, it was Mr. Bannon understanding that when a building permit is filed and approved December 2014, the removal of the existing structures was allowed. Mr. Bannon explained that eight months later he had taken over the project. Upon his observation of the guest house and the permit from the engineer, he assumed that the demolition of the structure was allowed. Upon further observation of the structure it showed the water and the electricity had been shut off at the transformer. He thought that it had been reviewed by the Building Inspector for demolition.

Larry explained upon examining the bylaw it appears that in this case it was more clerical issues rather than bad intent on the contractors part to supersede the bylaw. Joe agreed with that assessment. It was clarified that the applicant is seeking relief under the bylaw to allow a building permit/occupancy permit to be released without the two year delay as stated in 10.1-2D (Issuance of Building, Use or Occupancy Permit). Tucker agreed with Larry that a variety of different events occurred throughout the process of the project leading to several misunderstanding of the bylaws. Referencing to the Planning Boards approval in October 2014, during the process of plan review more detailed explanation regarding the demolition process could have taken place at that time. Mr. Coogan indicated they are seeking relief to modify the Building Inspectors decision and allow the relief of the two year period for issuing a building permit. Joe told the board that subsequently Mr. Bannon has applied for two demolition permits for the project. Tucker suggested the idea that Mr. Coogan could approach his client with a suggestion of a donation to the Dukes County Housing Authority or another agency of his choice. The intent of the bylaw is to determine whether a residential structure could have been reused at another location. Mr. Coogan will reach out to his client with that suggestion. With no further comments or questions from the applicant, Larry moved to close the public hearing and open the board meeting. Julius seconded the motion which was unanimously approved.

Larry made a motion to uphold the violation notice of the Building/Zoning Inspector; however the board modified the two year delay to issue a building permit to 30 days already past. The applicant may apply for a building permit January 19, 2016. Tucker seconded the motion. A roll-call vote was taken: Tony H- yes, Tucker – yes, Larry – yes, Julius – yes and Nancy – yes. Correspondence will be given to the Building Inspector reflecting the board’s decision with a copy to the applicant.

**Bernier Application:** The board reviewed the “draft” decision regarding the Bernier special permit voted on January 7, 2015.

Meeting Adjourned at 6:00 PM

Respectfully submitted  
Clare Harrington  
Board Administrator